Synopsis on

"The Role of Bar Council of India in Promoting Legal Education: A Study with Special Reference to State of Himachal Pradesh"

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Role of Bar Council of India in promoting Legal Education: A study with special reference to the State of Himachal Pradesh.

Introduction

The world is heading towards globalization and so is the legal education. As such, the legal education reforms are taking place around all over the world in a more responsively as well as influential manner than ever before. There is a grave need to educate the people about their legal rights to let them lead a better life and similarly to educate the law students to be a better professional and competent to have their persistence so that they can play a pivot role to handle a noble profession in the rapidly growing world. The legal education in today's world is focused on integration of cross-border and international dimensions of practice with the existing curriculum, with greater emphasis on solving the problems, balancing it with the traditional curriculum of litigation, use of new technology and clinical education for filling the gap between theory and practice of law.

India's legal education system is in exploratory stage and struggling qua its counterparts across the globe. However, Indian legal profession is going to be a mammoth due to its huge potential in near future. India is growing in each and every filed and embarking on the path of growth, it is essential that the Indian Education should be revived and reformed, so that ultimately the Indian legal profession could be strengthened more and could take the challenges of modern and contemporary world.

Furthermore, the main objective of the Indian legal education system should not be confined only for "Top of the Alpine" but must have stringent minimum standards so that it is transformational for all the law students, irrespective of their School of law school which they have chose.

Constitutional Provisions Regarding Legal Education In India

The Constitution of India has laid down the duty on the state to impart the education as per the List II of the Seventh Schedule. But, it now forms art of giving concurrent legislative powers to the Union and the States. Legal professional education is also the part and parcel of the same. Although there is no specific entry

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in Schedule VII of the Constitution of India regarding legal education. Entry 25 of the list III pertains to education, which reads as:

"25. Education including technical education, Medical Education and Universities, subject to the provisions of Entries 63, 64, 65 &66 of List I.

Thereafter, Entries 77 and 78 of List I, are concerned interalia, with the entitlement of individuals to practice before the Supreme Court and High Courts.

It is with reference to the entries 66, 77 and 78 of the List I of Seventh Schedule of Constitution of India, Parliament has enacted laws for professional legal education. The regulation has been imparted by Bar Council of India as apex body which regulates the standards of legal profession. Government of India formed a committee of the All India Bar Committee under the chairmanship of Judge of the Supreme Court. The said committee in its report observed that in the absence of any centralized authority, the qualifications required for being enrolled as a lawyer by different High Courts were not uniform. The important recommendation of the committee was that the apex body should also supervise the standards of legal education in India causing thereby Advocate's Bill was initiated in Parliament and both the house of Parliament passed it and as the Hon'ble President of India gave his consent for the same, it emerged as Advocates Act, 1961.

Importance of Legal Education: Role of Bar Council of India

Under the Advocates Act, 1961 the apex body is Bar Council of India. The said act emerges mainly to promote legal education and also laid down standards of such education in consultation with the universities. In furtherance of section 49 of Advocates Act, 1961 the BCI framed bar Council of India rules, 1965 in which chapter 4 pertains with minimum standards of legal education. Under the Advocates Act BCI has given power to prescribe the minimum qualification for getting admission in the law courses.

Hon'ble Supreme Court held in Bar Council of India Vs. state of U.P ()(AIR 1973 SC 231) that, The Advocates Act, 1961, under section 4 of which the Bar Council of India has been constituted, is an enactment made pursuant to entries 77 and 78 of schedule VII i.e. it is with respect to the subject matter of person entitled to practice. BCI is envisaged as the apex professional body for regulating and enforcing the standards to be observed by members of the Bar. In consonance

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with the various State Bar Councils, BCI is responsible for all matters relating and incidental to admission, practice, ethics, privileges, regulations, discipline and improvement of the profession.

14th report of Law Commission headed by Sh. M.C Setalvat anticipated the All India Bar Council, which resulted into Bar Council of India. The said Law Commission observed;

- One of the main subject to which the All India Bar Committee of 1953 gave its attention was the formation of the unified Indian Bar.

Regulation of Legal Education of BCI is covered under section 7 of Advocate's Act, 1961, which are as follows:

1. The functions of Bar Council of India Shall be:
   To promote legal education and to lay down standards of such education in consultation with the universities in India imparting such education and State Bar Councils;
2. To recognize Universities whose degree in law shall be a qualification for enrolments as an advocate and for that purpose to visit and inspect universities or cause the State Bar Councils to visit and inspect Universities in accordance with such directions as it may give in this behalf.

The Supreme Court of India in the decision of Bar Council of India Vs. Board of Management, Dayanand College of Law (2007, 2 SCC 202) surveyed that statutory powers available to BCI under the provisions of the Advocates Act as well as the rules framed there under, and concluded that since BCI was concerned with the standards of legal profession and the equipment of those who seek entry into that profession, BCI is, thus also concerned with the legal education in the country.

Bar Council of India also made its first Curriculum Development Committee (CDC) for the purpose of facilitating Universities and Institutions to formulate the law courses and other allied subjects. CDC opined that the integrated five year law course is highly technical and the same needs to be simplify and harmonize.

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Statement of Research Problem

Legal education has always remained as an agenda of the Governments since long, but, Law Commission of India, University Grant Commission of India & Bar Council of India has initiated steps to improve the quality of legal education. Apex court also recommended the legal education reforms time to time in order to improve legal education in India.

Despite the several methods of improvements there is an insecurity and dilemmatic situation in country regarding the scenario of the legal education. The reason behind it is very clear that there is no collaboration and coordination between the BCI, UGC, State bar Councils and All India Bar Council. A dire need is to reform the above said bodies first, so as to make them in consonance with each other so that they can function properly with each other.

It is never happened that the top management had ever came forward to refurbish the legal education. So, the active involvement of the top management and agencies which in fact are implicating and are regularly experiencing the impact of the syllabus as suggested by the BCI at the college and the field level is in a better position to get the legal education in a more better and effective manner and if further there are some bottlenecks and lacunas in imparting the legal education system the same are eradicated.

Moreover, legal education is not only useful to the law students but to all the citizens of the nation and it should be part of every curriculum, so that the students of all streams are aware about their legal rights and legal values so that they can lead a better civilized life. In fact it should be the part of Right to Education enabling students to be aware about their rights as citizen of India.

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Research Questions

1. Whether the Indian Legal System is in shamble or not?
2. Whether the BCI having sufficient means to improve Indian Legal Education system or not?
3. Whether the rules framed under various statutory bodies and Advocates Act, 1961 are being followed in true perspectives or not?
4. Whether the rules, norms, etc are actually being followed by the Universities and Colleges or not?
5. Whether the Indian Judiciary is exercising the BCI's regulations for the development of legal education or not?
6. Whether the UGC, BCI, State Bar Associations are in consonance with each other to improve the legal education or not?
7. Whether there is need to give all powers regarding legal education in the hands of one body or not?
8. Whether the Government step to take back the control from BCI and hand over it to NHERC is appropriate or not?

Hypothesis of the Study

1. Bar Council of India is finding it difficult to provide adequate legal education regulations and to improve legal education as per the need of hour.
2. Legal Education in India shall be doomed due to different controlling agencies and bodies.

Objectives of the Study

1. To figure out the reasons that why Legal Education in India is suffering?
2. To study the existing scenario of legal education for further improvement and development.
3. To examine the existing rules/regulations, laws, policies for further improvements and developments in Legal Education.
4. To clearly mention the role of Judiciary to regulate the Legal Education
5. To give possible suggestions which will be helpful to improve legal education in India.
6. To make the Legal Education in India better than other countries.
7. To check the Government step to take back the control from BCI and hand over it to NHERC is an appropriate step.

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Review of Literature

There has been enormous work which still to be done to improve and develop the legal education in India. The vision Statement of 2010-12 of The Chairman of the Bar Council of India, published on 2nd June, 2010 with a promise to "Ensure equality before Law and the supremacy of the rule of Law". And further identified two tentative issues to be resolved:

a. Inadequate quality of Legal Education
b. Lacking in skills to meet out the present demands of the nation to get reached at the place which is competent to other countries.

These above mentioned issues affecting the perspectives of legal education in India. The Law Commission in 184th report, 2002 passed for amendments to the Advocates Act, 1961. However, no efforts have been made by the Govt. of India to implement it. National Knowledge Commission, 2007 report calls for education of Indian Lawyers to be ready for law practice in the legal environment. B. C Nimal in his article, "Legal Education In India: Problem and Challenges" makes some observation about legal education in India by Locating it within a wider context of legal education reform that is taking place in law schools across the world in the wake of globalization. For being both intellectually challenging and professionally relevant, legal education should be more responsible than ever before to thelegal needs of the community. The learning needs of the students to become professionally competent to play their role in an increasing transnationalzed legal service. V. Nageswara Rao in his article, "Reform in Legal Education– Can Bar Council of India Play a Constructive Role?" has explained in detail the deplorable condition of legal education in India. The serious deficiencies in legal education which are bound to affect expertise and professional skills of lawyers and judges are discussed.

V.K Ahuja in his article, "Adapting Legal Education to the tune of the Globalization" as made efforts to explain the aim of legal education. According to the author the aim of legal education cannot, it is so serve a positive and useful role in modern society, be confined to teach the legal techniques and skills but to make the products of law as an instrument of progress through democratic process. It would be tragic if the law were so petrified as to be unable to respond to the unending challenging of the evolutionary or revolutionary changes in the society.

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Dr. P.L Mehta and Sushma Gupta in their article "Legal Education in India" has opined that the main question regarding the scope of legal education in India. They have discussed about the pattern of the legal education in India. Scope of legal education in research purposes in law has also been discussed and they have discussed about eh reforms of legal education in India.

Research Methodology

Data Study and Collection Methods:

1. Interviews of the functionaries of BCI, State Bar Council of Himachal Pradesh.
2. Various Law Colleges in Himachal Pradesh.
3. Interviews, Questionnaire, Discussions with concerned officers/officials of the legal world to get the perspectives of the cross section of the society.

- Secondary Sources:

To obtain more data from primary sources, intensive review of the available and accessible secondary sources will be made to full fill the information needs the information needs to the study. The required legal documents and policy documents, various law commissions reports, BCI rules 2008, guidelines, manuals, journals articles, books, news papers, magazines, website and other relevant published and unpublished sources will be reviewed
to obtain required secondary data for this study.

- Universe of the Study/Sample Size:

The universe of the study is to the state Himachal Pradesh, Judiciary of Himachal Pradesh, Judges of Shimla High Court, Advocates of Himachal Bar Association and various District Bar Associations. Furthermore, Law Teachers and Law Students of Himachal Pradesh and for data collection simple random method will be adopted.

- DATA ANALYSIS METHOD:

Data will be analyzed using both kinds of data i.e. qualitative and quantitative and simple statistical techniques will be employed to present and analyzed the data. Observational method also used to get the outcome of the study.

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Chapterization

1. Introduction.
2. Importance.
3. Framework, Composition and regulation of BCI.
4. Dynamics of Legal Education and Contribution of BCI in changing the Legal Education.
5. Judiciary role in developing Legal Education.
6. Findings and Suggestions.

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